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May 31, 2013

FHFA v. Credit Suisse Holdings (USA) Inc., et al., 11-CV-6200 (DLC) (S.D.N.Y.);

FHFA v. First Horizon National Corp., et al., 11-CV-6193 (DLC) (S.D.N.Y.);

FHFA v. JPMorgan Chase & Co., et al., 11-CV-6188 (DLC) (S.D.N.Y.);

FHFA v. Ally Financial, Inc. et al., 11-CV-7010 (DLC) (S.D.N.Y.);

FHFA v. Morgan Stanley et al., 11-CV-6739 (DLC) (S.D.N.Y.)

Dear Judge Cote:

Pursuant to paragraph 3 of the Court's February 27, 2013 Supplemental Expert Scheduling Order for Tranches 3 and 4 (the "Tranche 3 and 4 ESO"), defendants Credit Suisse Holdings (USA), Inc., Credit Suisse (USA), Inc., Credit Suisse Securities (USA) LLC, DLJ Mortgage Capital, Inc., Credit Suisse First Boston Mortgage Securities Corporation, Asset Backed Securities Corporation, Credit Suisse First Boston Mortgage Acceptance Corporation, Andrew A. Kimura, Jeffrey A. Altabef, Evelyn Echevarria, Michael A. Marriott, Zev Kindler, Thomas E. Siegler, Thomas Zingalli, Carlos Onis, Steven L. Kantor, Joseph M. Donovan, Juliana Johnson and Greg Richter (collectively, "Credit Suisse") submit this status report "concerning Guidelines and Loan Files relating to Sample Loans identified during January 2013" as well as "the production and identification of, and stipulation to, Guidelines and Loan Files".

I. Party Production of Loan Files and Underwriting Guidelines

Credit Suisse has completed its production of over 1.5 million pages of loan files in its possession. Credit Suisse has produced more than 38,000 underwriting guidelines and related documents from its files, and has identified those documents by Bates number in indexes produced to FHFA. If additional relevant underwriting guidelines and related documents are located, Credit Suisse will produce them to FHFA and will supplement the indexes accordingly.

II. Non-Party Production of Loan Files and Underwriting Guidelines

Since the last status report on April 30, 2013, the parties have continued to conduct teleconferences several times each week to coordinate and endeavor to expedite non-parties' production of loan files and underwriting guidelines relating to the FHFA samples. These efforts include a joint focus on subpoena recipients that have not yet made production of loan files or guidelines and, for such recipients, additional conferences about a proposed approach to obtaining such production. The parties have made significant progress in collecting loan files and underwriting guidelines pursuant to hundreds of subpoenas to third party originators, servicers and trustees/custodians that cover all of FHFA's sample loans in the Credit Suisse action and that were served or joined by Credit Suisse. Credit Suisse does not presently expect additional significant productions of sample or supplemental sample loan files from third parties, although several small productions may be forthcoming.¹ Credit Suisse continues to pursue additional supporting loan group loan files outside of the FHFA samples from third parties.

III. Status of Sample Loan File Production

In October 2012, FHFA identified the 4,300 loans in its initial set of "samples" for the Credit Suisse action, with 100 loans drawn from each of the 43 Securitizations at issue in that action. In January 2013, FHFA supplemented its samples with 600 additional loans drawn from the five Securitizations for which more than one supporting loan group underlies the certificates at issue. As of today, Credit Suisse has received and identified 3,920 loans out of the initial 4,300 loan sample (91%), and has received and identified 587 loans out of the supplemental 600 loan sample (92%), for a total of 4,507 sample loans (92% of the total 4,900 sample loans). Credit Suisse's experts are continuing to process and review additional loan file productions that recently have been received, and Credit Suisse is continuing to work with FHFA to reconcile the number of sample loan files that have been produced and confirm that both parties possess a complete set of produced sample loan files.

IV. Stipulations to Guidelines and Loan Files for Sample Loans

Pursuant to paragraphs 1-3 of the Tranche 3 and 4 ESO, which incorporate by reference paragraphs 1-2 of the November 26, 2012 Expert Scheduling Order, Credit Suisse has worked with FHFA on a good faith basis to identify documents related to FHFA's sample loans, to identify underwriting guidelines that may have applied to those sample loans, and to respond to FHFA's proposed stipulations as to the loan files and guidelines that "are, respectively, the best representation of the Loan File and Guidelines existing at the time of the loan's origination that the parties have been able to recreate as of the time of such agreement". Pursuant to a schedule agreed upon by the parties and approved by the Court, the parties have exchanged proposed stipulations and responses as

¹ Credit Suisse is awaiting servicer Ocwen Financial Corporation's completion of its sample loan file production. It also expects to receive corrected versions of certain corrupted portions of sample loan files produced by FDIC as Receiver to IndyMac and OneWest Bank.

to sample loans in the 40 Securitizations for which the parties possessed a significant number of loan files.² The parties have completed the stipulation process for two Securitizations, CSMC 2007-NC1 and FHLT 2005-E, and are continuing to work together to finalize stipulations in the remaining 38 Securitizations. Credit Suisse joins FHFA's request for an extension of the deadline for loan file and underwriting guideline stipulations for all the Securitizations (other than the two for which the process has been completed) until June 14, 2013.

For the 40 Securitizations for which the parties have proposed stipulations, FHFA proposed loan file "best representation" stipulations for 4,131 loans (out of the 4,600 sample loans across the 40 Securitizations). Credit Suisse has proposed loan file "best representation" stipulations for 2,929 loans. For 233 loans for which FHFA has proposed loan file "best representation" stipulations, Credit Suisse has not yet been able to propose stipulations because the loan files that were produced included corrupted images. All 233 loans are IndyMac loans and, as noted above, Credit Suisse is working with FDIC as Receiver to IndyMac and OneWest Bank to replace the corrupted images so that it can review the files and determine whether a "best representation" stipulation can be reached. For the remaining loans, Credit Suisse has not yet proposed a stipulation because its experts have not yet completed the identification or processing of all of the loan file documents identified by FHFA, but Credit Suisse is continuing to roll out additional "best representation" stipulations as that review is completed. For 89 of the sample loan files Credit Suisse has reviewed, Credit Suisse has notified FHFA that, even though the loan files identified by the parties are the "best representation" of the loan files for those loans that the parties have been able to recreate at present, Credit Suisse's experts have determined that the parties cannot complete a factual re-underwriting review of the loan files for the purpose of submitting re-underwriting expert reports pursuant to Paragraphs 10 and 12 of the Tranche 3 & 4 ESO because documents necessary for the re-underwriting process are missing. For each such loan file, Credit Suisse has provided FHFA with an explanation for its determination, including a list of certain key missing documents (*e.g.*, "Unable to re-underwrite because documentation type may be stated income and the loan file is missing the application").

For the 40 Securitizations for which the parties have proposed stipulations, FHFA proposed initial "best representation" underwriting credit policy documents for approximately 3,400 loans and "best representation" underwriting matrices for approximately 3,050 loans. For the same loan files, Credit Suisse proposed "best representation" underwriting credit policy documents for approximately 2,650 loans and "best representation" underwriting matrices for approximately 2,250 loans. Credit Suisse agreed with FHFA's initial proposal for the "best representation" underwriting credit policy documents for 250 loans and the "best representation" underwriting matrices for 70 loans. After FHFA reviewed Credit Suisse's proposed stipulations for "best representation" underwriting credit policy documents and matrices, FHFA agreed that the

² The parties have not yet exchanged proposed stipulations for three Securitizations for which they do not possess a significant number of loan files—AHMA 2005-1, AMSI 2005-R11 and FMIC 2005-3. Credit Suisse will meet and confer with FHFA about the best manner in which to identify and evaluate loan files for these three Securitizations after receiving updated stipulation proposals from FHFA early next week.

underwriting credit policy documents listed by Credit Suisse for approximately 2,150 of the loans were the “best representation”, and that the underwriting matrices for approximately 2,000 of the loans were the “best representation”. The parties continue to meet and confer on “best representation” underwriting documents.

Respectfully,



Lauren A. Moskowitz

BY EMAIL

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